

REMARKS

Status of the Claims

Upon entry of the amendment above, claims 19-37 and 39-73 will be pending, claims 19, 22, 36, 39, and 57 being independent.

Summary of the Office Action

Claims 22-29, 31-35, 38-45, 48-56, 66, 67, 69, and 70 are identified as containing *allowable subject matter*, but are objected to for depending from rejected parent claims.

Claims 57-64 and 71 are *allowed*.

Claims 19-21, 36, 46, 47, 65, and 68 are rejected under 35 USC §102(b) as being anticipated by KOFLACH (European Patent No. 0 134 778). See Section 3, beginning on page 2 of the Office action.

The following rejection, although presented in the Office action (see Section 4, beginning on page 3 thereof), was identified by the Examiner during a telephone conversation on December 22, 2003 to have been presented inadvertently and that it should be ignored: Claims 19, 20, 31, 36, 49, and 50 are rejected under 35 USC §102(b) as being anticipated by SALOMON (U.S. Patent No. 4,160,332). Accordingly, this rejection is not further addressed herein.

Claims 30 and 37 are rejected under 35 USC §103(a) as being unpatentable over KOFLACH in view of BERGERON (U.S. Patent No. 5,832,632).

Response to the Office Action

A. Summary of Amendment

In the amendment above, allowable claim 22 has been rewritten in independent form; the subject matter of allowable dependent claim has been incorporated within parent independent claim 36; allowable claim 39 has been rewritten in independent form; new dependent claims 72 and 73 have been added; and independent claim 19 has been amended to include the limitation

that retention band that extends between two anchoring points to connect to the inner surface of the upper, is a *single* such retention band, *i.e.*, the one and only such band connected between the two anchoring points.

Upon entry of the amendment, the following claims will be independent: claims 19, 22, 36, 39, and 57.

Of these, claim 57 was previously identified as allowed. Claims 22 and 39 were identified as allowable but were objected to for depending from rejected parent claims. And claim 36 has been amended to include the subject matter of allowable dependent claim 38.

Therefore, of independent claims 19, 22, 36, 39, and 57, all but claim 19 includes subject matter that has been identified as allowable.

Regarding claim 19, a limitation has been added which is not believed to have been disclosed or rendered obvious by the documents relied upon in the rejection or of record.

B. Withdrawal of Rejection Based Upon KOFLACH

Applicants kindly request that the rejection of claim 19 based upon KOFLACH be reconsidered and withdrawn.

Claim 19, as amended, reads as follows:

Claim 19. An inner tightening mechanism adapted to equip an article of footwear having a flexible or semi-rigid upper mounted on a sole, said tightening mechanism comprising:

a single retention band connected to the inner surface of the upper between two anchoring points fixed on lateral and medial sides, respectively, of the upper, said single retention band adapted to partially surround a foot of a wearer of the article of footwear in a flexion fold area and extending from said flexion fold area in a direction, along a length of said retention band, to an area adapted to receive a heel of the foot.

The invention of the tightening mechanism of claim 19, therefore, includes one and only one retention band (*i.e.*, consistent with the ordinary meaning of the word "single", as defined in a number of dictionaries, such as *The American Heritage Dictionary of the English Language*, Fourth Edition, Houghton Mifflin Co., New York, NY, 2000) or, put another way, there consists one such band, between the recited anchoring points. In the illustrated exemplary embodiment of the invention, for example, these anchoring points are shown with reference to numerals 12 and 22.

KOFLACH discloses an alpine ski boot 1 having a shell 2 that includes an upper/shaft 3. Both the ski boot shell 2 and the shaft 3 are rigid, whereas the tightening mechanism of claim 19 to equip an article of footwear having a flexible or semi-rigid upper.

Further, the boot of KOFLACH includes a plate 8 that extends over the instep region 7 and, pivotally arranged on the shell 2 of the ski boot 1, a clamping device 11 which engages, via a tension member 10 which extends in the longitudinal direction of the boot 1, on two lateral tension members 6 which are fixed at articulation points 5 for the pivoting of the shaft 3 of the ski boot shell, the tension member 10 extending partly over the plate 8 and being connected to the *two lateral tension members 6*.

In other words, the structure of the tightening mechanism of KOFLACH, which includes a plate 8, a clamping device 11, a first tension member 10, and *two additional lateral tension members 6*, is very different from the tightening mechanism according to the invention of claim 19.

At least in view of the foregoing, reconsideration and withdrawal of the rejection are requested. Further, because there would have been no teaching or suggestion to have modified the device of KOFLACH in a way that would have resulted in Applicants' invention of claim 19, it would not have been obvious to have modified KOFLACH in a way that would have met the terms of Applicants' claim 19.

SUMMARY AND CONCLUSION


The grounds of rejection advanced in the Office action have been addressed and are believed to be overcome. Reconsideration and allowance are respectfully requested in view of the amendment and remarks above.

A check is enclosed for payment of a fee for additional independent claims. No additional fee is believed to be due at this time. However, the Commissioner is authorized to charge any fee required for acceptance of this reply as timely and complete to Deposit Account No. 19-0089.

Further, although no extension of time is believed to be necessary at this time, if it were to be found that an extension of time were necessary to render this reply timely and/or complete, Applicants request an extension of time under 37 CFR §1.136(a) in the necessary increment(s) of month(s) to render this reply timely and/or complete and the Commissioner is authorized to charge any necessary extension of time fee under 37 CFR §1.17 to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone or fax number given below.

Respectfully submitted,
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